

ASSEMBLY BILL

No. 1047

Introduced by Assembly Member Calderon

February 20, 2003

An act to amend Section 515 of the Labor Code, relating to wages.

LEGISLATIVE COUNSEL'S DIGEST

AB 1047, as introduced, Calderon. Overtime compensation: insurance claims adjusting.

Existing law, with certain exceptions, establishes 8 hours as a day's work and a 40-hour workweek, and requires payment of prescribed overtime compensation for additional hours worked. It permits the Industrial Welfare Commission to establish exemptions, with certain requirements, from the requirement that an overtime rate of compensation be paid provided that employees are paid no less than 2 times the state minimum wage for full-time employees. Under existing law, the Industrial Welfare Commission has established exemptions for executive, administrative, and professional employees, with certain requirements.

This bill would make a technical, nonsubstantive change to those provisions.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 515 of the Labor Code is amended to
2 read:

1 515. (a) The Industrial Welfare Commission may establish
2 exemptions from the requirement that an overtime rate of
3 compensation be paid pursuant to Sections 510 and 511 for
4 executive, administrative, and professional employees, provided
5 that the employee is primarily engaged in the duties that meet the
6 test of the exemption, customarily and regularly exercises
7 discretion and independent judgment in performing those duties,
8 and earns a monthly salary equivalent to no less than two times the
9 state minimum wage for full-time employment. The commission
10 shall conduct a review of the duties that meet the test of the
11 exemption. The commission may, based upon this review, convene
12 a public hearing to adopt or modify regulations at that hearing
13 pertaining to duties that meet the test of the exemption without
14 convening wage boards. ~~Any~~ A hearing conducted pursuant to this
15 subdivision shall be concluded not later than July 1, 2000.

16 (b) (1) The commission may establish additional exemptions
17 to hours of work requirements under this division where it finds
18 that hours or conditions of labor may be prejudicial to the health
19 or welfare of employees in any occupation, trade, or industry. This
20 paragraph shall become inoperative on January 1, 2005.

21 (2) Except as otherwise provided in this section and in
22 subdivision (g) of Section 511, nothing in this section requires the
23 commission to alter any exemption from provisions regulating
24 hours of work that was contained in any valid wage order in effect
25 in 1997. Except as otherwise provided in this division, the
26 commission may review, retain, or eliminate any exemption from
27 provisions regulating hours of work that was contained in any
28 valid wage order in effect in 1997.

29 (c) For the purposes of this section, “full-time employment”
30 means employment in which an employee is employed for 40
31 hours per week.

32 (d) For the purpose of computing the overtime rate of
33 compensation required to be paid to a nonexempt full-time
34 salaried employee, the employee’s regular hourly rate shall be
35 $\frac{1}{40}$ th of the employee’s weekly salary.

36 (e) For the purposes of this section, “primarily” means more
37 than one-half of the employee’s worktime.

38 (f) (1) In addition to the requirements of subdivision (a),
39 registered nurses employed to engage in the practice of nursing
40 shall not be exempted from coverage under any part of the orders

1 of the Industrial Welfare Commission, unless they individually
2 meet the criteria for exemptions established for executive or
3 administrative employees.

4 (2) This subdivision does not apply to any of the following:

5 (A) A certified nurse midwife who is primarily engaged in
6 performing duties for which certification is required pursuant to
7 Article 2.5 (commencing with Section 2746) of Chapter 6 of
8 Division 2 of the Business and Professions Code.

9 (B) A certified nurse anesthetist who is primarily engaged in
10 performing duties for which certification is required pursuant to
11 Article 7 (commencing with Section 2825) of Chapter 6 of
12 Division 2 of the Business and Professions Code.

13 (C) A certified nurse practitioner who is primarily engaged in
14 performing duties for which certification is required pursuant to
15 Article 8 (commencing with Section 2834) of Chapter 6 of
16 Division 2 of the Business and Professions Code.

17 (D) Nothing in this paragraph shall exempt the occupations set
18 forth in subparagraphs (A), (B), and (C) from meeting the
19 requirements of subdivision (a).

